

UNPUBLISHED

UNITED STATES COURT OF APPEALS
FOR THE FOURTH CIRCUIT

No. 02-6512

ORLANDO DAVID ALMOND,

Petitioner - Appellant,

versus

DAVE ROBINSON, Warden,

Respondent - Appellee.

Appeal from the United States District Court for the Eastern District of Virginia, at Richmond. David G. Lowe, Magistrate Judge. (CA-01-314)

Submitted: May 30, 2002

Decided: June 10, 2002

Before WILKINS, TRAXLER, and GREGORY, Circuit Judges.

Dismissed by unpublished per curiam opinion.

Orlando David Almond, Appellant Pro Se. Michael Thomas Judge, OFFICE OF THE ATTORNEY GENERAL OF VIRGINIA, Richmond, Virginia, for Appellee.

Unpublished opinions are not binding precedent in this circuit. See Local Rule 36(c).

PER CURIAM:

Orlando David Almond seeks to appeal the magistrate judge's order* denying his petition filed under 28 U.S.C.A. § 2254 (West 1994 & Supp. 2001). We dismiss the appeal for lack of jurisdiction because Almond's notice of appeal was not timely filed.

Parties in a civil action, in which the United States is not a party, are accorded thirty days after the entry of the magistrate judge's final judgment or order to note an appeal, see Fed. R. App. P. 4(a)(1), unless the magistrate judge extends the appeal period under Fed. R. App. P. 4(a)(5), or reopens the appeal period under Fed. R. App. P. 4(a)(6). This appeal period is "mandatory and jurisdictional." Browder v. Dir., Dep't of Corr., 434 U.S. 257, 264 (1978) (quoting United States v. Robinson, 361 U.S. 220, 229 (1960)).

The magistrate judge's order was entered on the docket on January 22, 2002. Almond's notice of appeal was filed on March 25, 2002. Because Almond failed to file a timely notice of appeal or to obtain an extension or reopening of the appeal period, we deny a certificate of appealability and dismiss the appeal. We deny Almond's motion for preparation of a transcript at government expense and dispense with oral argument because the facts and legal

* The parties consented to the exercise of jurisdiction by the magistrate judge in accordance with 28 U.S.C.A. § 636(c)(1) (West 1993 & Supp. 2001).

contentions are adequately presented in the materials before the court and argument would not aid the decisional process.

DISMISSED